IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6901 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJ STATE ROAD TRANSPORT CORPN

Versus

BHIKHABHAI RANJIBHAI PARGHI

Appearance:

MR HARDIK C RAWAL for Petitioner

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 14/03/2000

ORAL JUDGEMENT

Learned advocate Mr. Raval is appearing for the petitioner Corporation. Though served, none present for the respondent. Byway of this petition under Article 227 of the Constitution of India, the petitioner has

challenged the impugned award dated 22nd March, 1990 passed by the Labour Court, Vadodara in Reference (LCV) No. 908 of 1988 whereby the order deleting the name of the respondent workman from the waiting list with effect from 27.8.87 has been set aside and has been further ordered to reinstate the respondent workman at the place where he was and to reinstate him in service. The has not passed any orders for back wages. The facts giving rise to the present petition, in short, are that the respondent was employed by the petitioner corporation as a badli worker and his name was shown on the waiting list. During the course of his duty as conductor on 20th May, 1987, an allegation was made against him that from one passenger, though the fare of luggage was collected, he had not issued any luggage ticket to the said passenger and, therefore, after giving him show cause notice to show cause as to why his name should not be deleted from the waiting list of the conductors, his name was ordered tobe deleted from the wait list of the conductors which order was challenged by the respondent before the labour court by filing the aforesaid reference. The labour court, after appreciating the facts and circumstances of thecase and the evidence brought before it, passed the impugned award quashing and setting aside the order deleting his name from the wait list and further directed to reinstate the respondent by reinserting his name in the wait list at the place where he was and has not passed orders for back wages. Said award passed by the labour court has been challenged by the petitioner before this court by filing this petition.

2. This Court, while admitting this petition, has not granted any interim relief.

3. Now, in this case, the fact remains that before deleting the name from the wait list of conductors, no regular departmental inquiry was held against him. The labour court has passed the impugned award while exercising the powers under section 11A of the Industrial Disputes Act, 1947.

4. Learned advocate Mr. Raval has submitted that in such case, when the respondent has committed serious misconduct in not issuing luggage ticket though charge thereof was collected, the labour court should not have interfered with the order of punishment. He has further submitted that the respondent was served with a notice to show cause as to why his name should not be deleted from the wait list and thereafter, his name has been deleted from the wait list.

5. I have considered the submissions made by Mr. Raval. Before the labour court, the respondent has not pressed for back wages and being the badli conductor, it was his first misconduct which was condoned by the labour court while exercising the powers under section 11A of the ID Act. During the course of his submissions, learned advocate Mr. Raval has not been able to point out any infirmity and/or jurisdictional error committed by the labour court in passing the impugned award. Further, while admitting this petition, this court has not granted any interim relief against the operation of the impugned award. Therefore, after passage of about ten years, by now, his services must have been regularized and after such a long period, it would not be in the fitness of the things to disturb the present position of the respondent workman. Further, admittedly, the petitioner has initiated no departmental inquiry against the respondent before deleting his name from the wait list of conductors which is contrary to the law laid down by this Court in the decision in case of .....versus .....reported in 1993 (1) GLR pg. 442. Therefore, taking into consideration all these aspects of the matter, I am of the opinion that this court should not interfere with the impugned award passed by the labour court. In view of the above, this petition is required to be rejected as having no substance. Same is, therefore, rejected. Rule is discharged. There shall be no order as to costs.

14.3.2000. (H.K.Rathod,J.)

Vyas